

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT ESPIREL,

Plaintiff,

v.

NOTICE OF REMOVAL

Civil Action #: 1:20-cv-10881

STARBUCKS CORPORATION d/b/a
STARBUCKS COFFEE COMPANY,

Defendant.

**TO: United States District Court
Southern District of New York**

Pursuant to 28 U.S.C. §1441 and 1332, the action entitled *Robert Espirel v. Starbucks Corporation d/b/a Starbucks Coffee Company*, commenced in the Supreme Court of the State of New York for the County of New York, Index Number 157135/2020, is hereby removed by Defendant, Starbucks Corporation d/b/a Starbucks Coffee Company (“Starbucks”), from the Supreme Court of the State of New York, County of New York to the United States District Court for the Southern District of New York by the filing of this Notice of Removal with the Clerk of the United States District Court for the Southern District of New York.

Starbucks, by and through its attorneys, Goldberg Segalla LLP, respectfully states the following as grounds for removing this action:

Procedural History

1. On or about September 3, 2020, the above-captioned civil action was commenced, in the Supreme Court of the State of New York, County of New York. Plaintiff’s Summons and Complaint were assigned Index Number 157135/2020 (hereinafter, the “State Court Action”).

2. According to the Affidavit of Service filed on September 15, 2020, plaintiff served Starbucks authorized agent on September 8, 2020.

3. Copies of all process, pleadings, and orders served upon the defendants in the State Court Action are attached hereto as **Exhibit A**.

4. The State Court Action seeks monetary damages for personal injuries allegedly suffered by plaintiff, Robert Espirel, when he fell while at the premises located at 245 East 80th Street, New York, New York (“Premises”).

Parties

5. Upon information and belief, plaintiff is a resident of New York County, City and State of New York.

6. Starbucks is incorporated under the laws of the state of Washington and has a principal place of business in Washington.

7. More specifically, Starbucks is a foreign corporation duly organized and existing by the virtue of the laws of the State of Washington, with a principal place of business at 2401 Utah Avenue S., Seattle, Washington 98134.

8. Starbucks is a publicly traded Washington corporation and no shareholder owns 10% or more of the shares of Starbucks stock.

9. Accordingly, full diversity exists between the parties.

Jurisdiction

10. This Court has subject-matter jurisdiction of the action pursuant to 28 U.S.C. § 1332 in that it is a civil action between citizens of different states, and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

Basis for Removal

11. This Court has subject-matter jurisdiction on the basis of diversity of citizenship under 28 U.S.C. § 1332. Venue is proper pursuant to 28 U.S.C. § 1441(a) as this is the federal district court for the district embracing the place where the state court suit is pending.

12. Though the Complaint does not state the amount of damages that will be sought,

on or about December 10, 2020, our office forwarded a proposed stipulation to plaintiff's counsel, requesting plaintiff limit his request for damages to less than \$75,000. Plaintiff declined to execute the proposed stipulation, thereby confirming that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

13. Therefore, it is Starbucks good faith belief that the amount in controversy exceeds \$75,000, exclusive of interest and costs, making venue proper.

14. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon plaintiff, by and through his attorney of record, and is being filed with the Clerk of the Court of the State of New York, Supreme Court, County of New York, New York County Clerk's Office.

15. By filing this Notice of Removal, Starbucks does not waive any defenses which may be available to it, specifically including, but not limited to, its right to contest *in personam* jurisdiction over Starbucks, improper service of process, and the absence of venue in this Court or the Court from which this action has been removed.

WHEREFORE, Starbucks files this Notice of Removal so that the entire state court action under Index No. 157135/2020 now pending in the State of New York, Supreme Court, County of New York be removed to this court for all further proceedings.

Dated: Buffalo, New York
December 23, 2020

GOLDBERG SEGALLA LLP



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